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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 JAMALL BAKER,

9 Plaintiff,

10 v.

11 JERALD GRANT, et al.,

12 Defendants.

Case No. C17-1678-RSL-MAT

ORDER ON JOINT STATUS REPORT

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14 This is a 42 U.S.C. § 1983 prisoner civil rights action. Pursuant to the Court's November  
15 19, 2019 order (Dkt. 115), the parties filed a joint status report ("JSR") (Dkt. 123). Some of the  
16 issues addressed in the JSR have already been resolved. (*See* Dkts. 119, 122.) The remaining  
17 issues relate to discovery and summary judgment. (*See* Dkt. 123.) The parties agree that  
18 defendants' motion for summary judgment should be placed back on the Court's calendar and  
19 noted for February 28, 2020. Plaintiff, however, contends he needs an additional 60 days to  
20 conduct discovery in order to oppose the summary judgment motion and indicates he will file a  
21 motion requesting such a relief. Defendants do not believe additional time is necessary and plan  
22 to oppose any request.

23 Having considered the joint status report and the balance of the record, the Court finds and

1 ORDERS:

2 (1) On April 1, 2019, defendants moved for summary judgment. (Dkt. 84.) On April  
3 3, 2019—before the discovery deadline passed—plaintiff filed a motion for a continuance under  
4 Federal Rule of Civil Procedure 56 so he could obtain additional discovery before responding to  
5 the summary judgment motion. (Dkt. 91.) The Court subsequently took defendants’ summary  
6 judgment motion off its calendar pending the appointment of pro bono counsel to represent  
7 plaintiff at an evidentiary hearing regarding exhaustion. (Dkt. 104.) The Court also denied as  
8 moot plaintiff’s Rule 56 motion for extension of time. (*Id.*) After counsel was appointed, the  
9 Court set October 18, 2019 as the written discovery deadline, November 22, 2019 as the deposition  
10 deadline, and scheduled the evidentiary hearing for January 23, 2020. (Dkt. 112.) On November  
11 5, 2019, defendants waived their exhaustion argument. (Dkt. 114.) In light of this development,  
12 Court allowed plaintiff’s pro bono counsel to withdraw and cancelled the evidentiary hearing. (*See*  
13 Dkts. 116-122.)

14 Given this record, plaintiff is in essentially the same position now as he was when he filed  
15 his April 3, 2019 motion for a continuance under Rule 56(d). Plaintiff, however, did not support  
16 his April 3, 2019 motion with an affidavit or declaration as required by the rule. Therefore, the  
17 Court deems it appropriate to require plaintiff to file a properly supported Rule 56(d) motion for  
18 extension of time to conduct discovery and respond to defendants’ motion for summary judgment.  
19 Plaintiff shall file such a motion by **February 25, 2020**, and note it on the Court’s calendar as  
20 provided in the Local Rules.

21 (2) After resolution of plaintiff’s motion for extension of time (or if he does not timely  
22 file such a motion) the Court will direct defendants to re-file their motion for summary judgment  
23 with the standard noting date.

1           (3)     The Clerk is directed to send copies of this order to the parties and to the Honorable  
2 Robert S. Lasnik.

3           Dated this 4th day of February, 2020.

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6 Mary Alice Theiler  
United States Magistrate Judge